

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JEREMIAH F. HERBERT,

Plaintiff,

v.

WARDEN HAROLD L. SMITH, et al.,

Defendants.

20-CV-6348 (PMH)

ORDER

PHILIP M. HALPERN, United States District Judge:

On June 15, 2021, Plaintiff filed his fourth application requesting that the Court appoint *pro bono* counsel. (Doc. 79). On June 17, 2021, Defendants opposed the request. (Doc. 81). Plaintiff's prior requests were denied because the Court determined, after application of the factors set forth in *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986), that Plaintiff had not made the requisite showing to demonstrate that the appointment of *pro bono* counsel was appropriate and/or that Plaintiff's request was premature. (See Doc. 30 at 3-4; Doc. 46 at 1). The Court denied Plaintiff's request for the appointment of *pro bono* counsel "without prejudice to Plaintiff renewing the request at a later stage of the litigation." (Doc. 46 at 1; Doc. 73 at 1).

The procedural posture of this case has not changed significantly since Plaintiff's prior requests were denied and Plaintiff's fourth application for *pro bono* counsel is likewise denied without prejudice to renewing at a later stage of the litigation. There is currently a motion to dismiss pending in this action (Doc. 56), which the Court will address in due course.

**CONCLUSION**

Plaintiff's application for *pro bono* counsel is denied without prejudice. The Clerk is directed to mail a copy of this Order to Plaintiff at the address provided on the docket and to terminate ECF No. 79.

Dated: White Plains, New York  
June 21, 2021

**SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

Philip M. Halpern  
United States District Judge